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Douglas D. Orvis II
Robert S. Eaton
Direct Phone: 202.373.6041
Direct Fax: 202.373.6001
douglas.orvis@bingham.com
r.eaton@bingham.com

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Via Electronic Filing

Marlene S. Dortch
Secretary
Federal Communications Commission
The Portals TW-A325
455 Twelfth Street, SW
Washington, DC 20554

Attention: Mr. Jeremy Marcus, TAPD

Re: Rural Health Care Pilot Program - Docket 02-60

Dear Ms. Dortch:

Iowa Health System ("IHS"), through its attorneys, submits this letter in support of its Application for grant funding from the Commission's Rural Health Care Pilot Program ("Pilot Program") established in the above referenced docket. As you are aware, representatives from IHS recently met with members of the Wireline Competition Bureau and the Telecommunications Access Policy Division to discuss the merits of its Application. This letter is intended to clarify and expand upon some if the issues identified during that meeting.

As a non-profit and the State of Iowa's largest provider of integrated health services, IHS continually strives to ensure the continuity of care for Iowans as part of its mission to improve the quality of health care in the communities they serve. To that end, IHS has invested more than sixteen million dollars of its own capital to create a private, 2,170 route-mile fiber optic network providing connectivity and transport for 139 healthcare entities associated with IHS. The physical network also includes additional, currently unused (dark), fiber strands which IHS is now activating using five million dollars of its own funds for use by HealthNet.[1] These additional fiber strands will be available for use by healthcare entities that will connect to using funds from the FCC Rural Health Care Pilot Program. The IHS contribution to HealthNet of five million dollars of the total 12.8 million dollar cost represents a funded commitment well in excess of the 15% matching requirement of the Pilot Program. HealthNet will be available to all healthcare entities in the region on a non-discriminatory basis. It will also provide fiber optic connectivity to

[1] HealthNet is the working name for the project and subject to change.

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T 202.373.6000
F 202.373.6001
bingham.com

Chicago and Denver. This connection will enable HealthNet users to interconnect with Internet2 and National Lambda Rail, thus permitting global connectivity for those healthcare entities that want or need it.

More importantly, IHS is already providing next generation telemedicine to Iowans. IHS processes more than five million transactions each day, transmitting everything from prescription information to highly detailed medical imagery using their existing private fiber optic network. The IHS network is saving lives in rural communities across Iowa by providing immediate access to surgeons, specialists, and medical labs that were previously out of rural hospitals' reach. But telemedicine is just the beginning. As a true public-private partnership, HealthNet will extend connectivity to healthcare entities across Iowa (and portions of adjoining states) as well as providing nondiscriminatory access to private entities, such as insurers and pharmacies. (These entities, of course, will pay for the costs associated with establishing and maintaining their connections to HealthNet.) By connecting all members of the healthcare community, HealthNet will provide patients with a true "continuum of care," allowing patient data to flow where it is needed and ensuring efficient delivery of healthcare.

With the Commission's assistance, IHS will transform HealthNet into the successful rural health network envisioned by the *Pilot Program Order*.[2] Granting IHS's Application will provide the funds necessary to create – either through existing carriers or with new construction where necessary – the network access facilities to any willing health care facility identified in Exhibit 2 to IHS's Application. IHS's Application would provide the Commission with a guaranteed success story for its investment under the Pilot Program. Because HealthNet's backbone network fiber is in cable that *already* exists and will continue to be activated with or without public funding, grant funds under the Pilot Program are only required to extend the network's "last mile" to eligible providers. By granting the IHS Application, the Commission can be confident that Pilot Program funds will be spent on a network that is a proven success and is already providing the next generation of telemedicine/telehealth services in Iowa.

This project is designed to be self-sustaining, and will not require additional grants or significant contributions from eligible rural entities to operate. As indicated in the Application, for-profit entities will pay for their own connections to the network and also for the bandwidth used. IHS intends to use revenue generated from for-profit entities (including healthcare-related entities such as insurance companies, data centers and the like) to subsidize the operational costs of eligible rural providers. For this reason, IHS requests only a one-time grant from the Commission to cover the costs of creating the last mile connectivity to the network backbone to encompass the entities listed in the

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[2] *Rural Health Care Support Mechanism,* Order, WC Docket No. 02-06, FCC 06-144 (2006)("Pilot Program Order").

Application who choose to participate. The result of this collaboration will be seamless connectivity between the rural facilities, larger urban hospitals, as well as payors (*i.e.*, insurance companies), lab facilities, pharmacies, and other entities that do not provide healthcare directly, but who are key players in the healthcare system.

Because for-profit entities will pay for the full cost of their connections, and because of the economies of scale inherent in a extending an already existing privately-owned and healthcare-dedicated network, IHS intends to offer connections to eligible rural providers without requiring them to contribute to the capital costs of creating the connectivity. Many of the competing applications require participating rural providers to contribute some portion of the unfunded program costs. These applications place the financial burden of paying for the network on the rural entities that can least afford it. Moreover, there is an inherent risk in some of these applications that, even after receiving FCC funds, the proposed network will never be completed because applicants are unable to obtain funds to pay the remaining 15% of costs. Unlike many other applicants, IHS has already established a plan and committed its own funds to make its project succeed, with five million dollars committed to a total program cost of 12.8 million dollars (substantially more than the minimum 15% required). Other applications are admittedly uncertain as to how they will fund the Pilot Program's minimum self-contribution of 15% of the total cost of the project. The Commission should be wary of granting applications without a clear understanding of how the applicant will fund the remaining 15% of their projects. IHS's fully-funded approach affords rural providers a virtually free connection and assures that Pilot Program funds are actually benefiting eligible rural providers rather than being expended on construction costs that ultimately benefit for-profit entities.

During our meeting, Commission staff asked for clarification about the funding years in question in the IHS Application. IHS's Application is intentionally non-specific as to the funding year or years in question. Due to the delays between the original *Pilot Program Order* and the ultimate application window, it is not clear that the Commission still intends to have a two-year Pilot Program, and if so, which two funding years would apply. The IHS Application is drafted as a one-time grant, but IHS is more than willing to accept split grant funding across two years if the Commission chooses to retain its original model. Because it seeks only a one time grant for capital costs, and does not seek on-going funding for operating costs, a single grant for a particular funding year is also acceptable.

IHS's Application differs from certain other Applicants in that IHS is willing and able to work within the Rural Health Care ("RHC") funding mechanism's existing legal framework. For example, IHS, as a health care provider in its own right, is itself a qualified applicant under the Pilot Program and existing RHC rules. In the *Pilot Program Order*, the Commission stated that it would consider applications from "public and non-profit health care providers" that meet the definition established in the FCC's

rules.[3] As a non-profit entity and the largest provider of healthcare in Iowa, IHS clearly meets the eligibility standards established by the Commission. This fact alone differentiates IHS's Application from those submitted by entities that do not actually provide healthcare and are not eligible applicants. Recipients of RHC grant funding must also comply with the Commission's competitive bidding rules. Indeed, the *Pilot Program Order* explicitly states that grant recipients will be required to work within the RHC's competitive bidding requirements in order to ensure funds are used for their intended purposes.[4] IHS agrees with the Commission that competitive bids are an indispensable tool the Commission must use to prevent fraud in the program and is committed to working within the Commission's competitive bidding rules.

In the Application, and as Commission staff recognized during our meeting, the existing competitive bid process presents unique issues given the nature of the Pilot Program, which contemplates support for network construction rather than simply purchasing services. IHS's Application observed that the uniqueness of the Pilot Program could require a slight change in the manner in which USAC reviews competitive bids or considers eligible service providers. For instance, where appropriate physical network is not available through USAC-qualified carriers, network construction may require the use of Outside Plant contractors ("OSP Contractors" in industry parlance). To our knowledge, no OSP contractors are currently registered with USAC to be eligible service providers. That is, they have not, among other things, filed the appropriate Form 498 and received a Service Provider Identification Number ("SPIN")).

IHS's "request" in its Application was only to identify this implementation issue, not to request a waiver of the competitive bid rules. IHS believes the current Form 498 can accommodate OSP Contracts as "non-traditional providers", the category of service providers that are not telecommunications carriers under the existing instructions to the Form. IHS would envision that bids would be sought for the specific physical network facilities needed to reach an eligible heath care provider. If no USAC-qualified service provider/carrier responded then the health care provider might seek bids from non-traditional providers (*e.g.*, OSP contractors). IHS believes, however, that existing carriers (who likely already have SPINs and are familiar with USAC's procedures; in Iowa, Qwest and Iowa Telecom are the two largest carriers) would be the most likely

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[3] Under 47 C.F.R. § 54.601(a), a "health care provider" is any of the following: a post-secondary educational institution offering health care instruction, including a teaching hospital or medical school, a community health center or health center providing health care to migrants, a local health department or agency, a community mental health center, a not-for-profit hospital, a rural health clinic, or a consortium of health care providers consisting of one or more entities described above.

[4] *Pilot Program Order,* at ¶ 18.

source, even if new construction is required. Thus, IHS believes it can comply completely with the all the existing FCC RHC regulations applicable to the Pilot Program without waiver of the Commission's rules or USAC's normal operating procedures.

Finally, IHS would like to follow up on issues raised by a recent filing in this docket. IHS would like to clarify that current status of the seventy-eight facilities identified in the Application. At the time of filing, IHS took a practical approach that allowed it to cover the largest area for the lowest cost. All seventy-eight facilities were chosen because they are within a relatively short distance (an average of less than one mile) of available fiber connectivity to the existing HeathNet backbone fiber. This method of identifying possible participants was chosen to minimize construction costs and the size of IHS's grant request. This approach allowed IHS to preserve its objective of applying public funds solely to the construction of connections to eligible providers. The approach also allows for rapid deployment of the network to rural providers because IHS can quickly create the last mile connectivity necessary to bring the rural providers online. Finally, the seventy-eight entities listed represent a large percentage of state's hospital beds. Assuming all seventy-eight entities are connected, HealthNet will cover more than 86% of the hospital beds in the state.

As clearly indicated in the Application, IHS has not obtained a formal commitment from each hospital or facility listed in its application. Nonetheless, IHS wishes to provide some background on why all potential, rather than only pre-committed, facilities were included. First, IHS was required to keep this initiative confidential until it obtained approval from its Board of Directors. Accordingly, it did not have the opportunity to obtain a binding commitment from each hospital before filing its Application.[5] In subsequent conversations, many CEOs of rural hospitals, including some of those listed on the application submitted by the Iowa Health Association,[6] have expressed a preference for IHS's solution and would have committed to HealthNet had they been aware of the option. Simply put, the need for this service is so great in Iowa that most rural hospitals would welcome any solution. But when presented with a choice, IHS believes the majority will chose HealthNet, which offers greater functionality at less cost.

Second, by including the seventy-eight listed entities IHS ensured that its request was sufficient to cover all rural providers within an average of one mile of available fiber to connect with the backbone network being created by IHS. The Application was designed

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[5] IHS has, however, obtained an informal commitment from at least forty of the listed hospitals and facilities.

[6] For example, Pam Delagardelle, CEO of Grundy County Memorial Hospital, has confirmed her preference for HealthNet and explains that she only signed onto IHA's proposal because of she was unaware of IHS's option.

to do the greatest good for Iowa by allowing the largest possible number of rural healthcare entities the opportunity to connect to HealthNet. IHS firmly believes that no rural healthcare entity will turn down the opportunity to freely connect to HealthNet. There is no capital outlay required by those entities, as IHS, as the Applicant and a health care provider in its own right, has arranged to provide those funds. While connections to unlisted facilities are outside the scope of the Application, there is no technological or design barrier that would prevent IHS from expanding the scope of HealthNet in the future. The alternative, which was to submit an application for only those hospitals that had committed to HealthNet, would force IHS to turn down late comers and ultimately do a disservice to Iowans by connecting fewer rural providers to the network.

IHS firmly believes that HealthNet will revolutionize healthcare in the state of Iowa, and provide a model for the rest of the country. IHS has made fiber optic connectivity a reality in Iowa's urban and suburban centers by making the commitment and investment to create its own 2,170 route-mile network. The only remaining question is whether Commission funds are available to bring the substantial benefits of HealthNet to Iowa's rural communities.

Sincerely yours,

Douglas D. Orvis II
Robert S. Eaton

Counsel to Iowa Health System

cc: Jeremy Marcus (via email)
Thomas Buckley (via email)
Sabra Rosener
Jim Mormann